IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 24TH AUGUST 2007 / 2ND BHADRA 1929

Crl.MC.No. 2714 of 2007()

CC.99/2007 of JUDL.MAGISTRATE OF FIRST CLASS COURT, ALATHUR

.....

PETITIONERS/2ND AND 3RD ACCUSED:

---

1. ABDUL MAJEED
S/O.ABDUL KHADER,
AGED 30 YEARS,
RASIA MANSIL,
KULIYAD, MELARKODE,
PALAKKAD DIST.

2. ABDUL NAZAR,
S/O. ABDUL KHADER,
AGED 27 YEARS,
RASIA MANSIL,
KULIYAD, MELARKODE,
PALAKKAD DIST.

BY ADV. SMT.JEENA JOSEPH
SRI.G.D.PANICKER

RESPONDENT/COMPLAINANT-STATE:

ADDITIONAL SUB INSPECTOR OF POLICE,
ALATHUR, PALAKKAD DIST. REP.BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 24/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2714 of 2007

Dated this the 24th day of August 2007

O R D E R

The petitioners face indictment for an offence punishable under Section 420 read with 34 I.P.C. Final report has been filed by the police. Cognizance has been taken. The second petitioner had appeared before the learned Magistrate. He was enlarged on bail. But on one date of posting, the second petitioner could not appear before the learned Magistrate. First petitioner was employed abroad. He had not appeared before the learned Magistrate.

2. Reckoning the petitioners as absconding, the learned Magistrate has issued coercive processes against the petitioners. The petitioners thus find warrants of arrest issued by the learned Magistrate chasing them.

3. According to the petitioners, they are absolutely innocent. Their absence was not wilful and was on account of reasons beyond their control. The petitioners are willing to surrender before the learned Magistrate and seek regular bail. They will co-operate with the court for the expeditious disposal of the case. But they apprehend that their application for bail may not be considered by the learned Magistrate on merits, in

accordance with law and expeditiously. They, therefore, pray that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioners on bail when they appear and apply for bail.

4. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which they could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioners on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

5. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioners surrender before the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

jsr // True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007